

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**KONINKLIJKE PHILIPS ELECTRONICS
N.V. and U.S. PHILIPS CORPORATION,**

Plaintiffs,

v.

**CINRAM INTERNATIONAL INC.,
CINRAM INC., CINRAM
MANUFACTURING INC., and John Does
No. 1 through 100,**

Defendants.

Civil Action No.
08 CV 00515 (RGS)

ECF Case

**DECLARATION OF SAMUEL CUMMINGS BASS
IN SUPPORT OF PHILIPS' MOTION FOR AN EXTENSION OF TIME TO OPPOSE
CINRAM'S MOTIONS FOR SUMMARY JUDGMENT OF INVALIDITY AND NON-
INFRINGEMENT**

I, Samuel Cummings Bass, declare as follows:

1. I am an associate at the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner LLP. Unless otherwise specified, I have personal knowledge of all facts set forth in this Declaration, and I would and could testify competently thereto if called upon to do so.
2. I am admitted *pro hac vice* and currently represent Plaintiffs Koninklijke Philips Electronics N.V. and U.S. Philips Corporation (collectively "Philips") in this case.
3. Attached as Exhibit A is a true, correct, and authentic copy of an email I sent to Gregory Carbo of Cooper & Dunham LLP, counsel for Cinram, dated July 29, 2010 at 11:07 AM.
4. On July 29, 2010 at approximately 2:30 PM, Gregory Carbo of Cooper & Dunham LLP, counsel for Cinram, called me by telephone. During this telephone call, Mr. Carbo and I discussed whether Cinram would consent to Philips' request for an extension of time

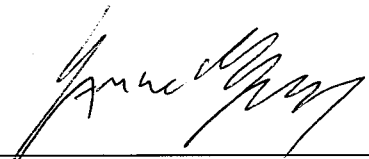
to file Oppositions to Cinram's Motions for Summary Judgment of Invalidity and Non-Infringement. I explained to Mr. Carbo that Philips' experts have vacations planned during the month of August 2010 and that Philips' experts would thus have limited ability to assist Philips in preparing its Oppositions. Mr. Carbo said that Cinram would agree to a longer extension, through September 3, 2010, but only if Philips agrees that it will file "actual" oppositions and not request a continuance under Fed. R. Civ. P. 56(f). I tried to bargain with Mr. Carbo for a two-week extension without any conditions, but Mr. Carbo stated that Cinram would not agree to any extension without that condition.

5. Attached as Exhibit B is a true, correct, and authentic copy of an email I sent to Gregory Carbo of Cooper & Dunham LLP, counsel for Cinram, dated August 2, 2010 at 8:47 AM.

6. Attached as Exhibit C is a true, correct, and authentic copy of an email I received from Gregory Carbo of Cooper & Dunham LLP, counsel for Cinram, dated August 2, 2010 at 1:22 PM.

7. Attached as Exhibit D is a true, correct, and authentic copy of an email I received from Gregory Carbo of Cooper & Dunham LLP, counsel for Cinram, dated August 2, 2010 at 4:42 PM.

Pursuant to 28 U.S.C. § 1746, I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 3rd day of August, 2010 at Washington, District of Columbia.



Samuel Cummings Bass

Exhibit A

Bass, Samuel

From: Bass, Samuel
Sent: Thursday, July 29, 2010 11:07 AM
To: 'gcarbo@cooperdunham.com'
Cc: 'ikavrukov@cooperdunham.com'; Spencer, Jennifer
Subject: Cinram MSJs

Dear Greg:

We would like to request a two week extension of time on the due date for Philips' oppositions to Cinram's MSJs filed on July 23. Please let me know whether you will consent to this extension.

Sincerely,
Sam

Samuel C. Bass
Attorney at Law
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
901 New York Avenue, NW, Washington, DC 20001-4413
202.408.4383 | fax 202.408.4400 | samuel.bass@finnegan.com www.finnegan.com

Exhibit B

Bass, Samuel

From: Bass, Samuel
Sent: Monday, August 02, 2010 8:47 AM
To: 'gcarbo@cooperdunham.com'; 'ikavrukov@cooperdunham.com'
Cc: Hornick, John; Spencer, Jennifer
Subject: Re: Cinram MSJs
Attachments: MotionForExtensionOfTimeToOpposeCinram's MSJs.pdf

Dear Greg:

Further to my email below and our phone conversation on July 29, please let us know by 6 PM today whether you will consent to an extension of time without conditions for Philips to respond to Cinram's MSJs. We will file the attached motion for an extension of time this evening unless we receive your consent.

Sincerely,
Sam

From: Bass, Samuel
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To: 'gcarbo@cooperdunham.com'
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202.408.4383 | fax 202.408.4400 | samuel.bass@finnegan.com www.finnegan.com

Exhibit C

Bass, Samuel

From: Gregory Carbo [GCarbo@COOPERDUNHAM.COM]
Sent: Monday, August 02, 2010 1:22 PM
To: Bass, Samuel; 'ikavrukov@cooperdunham.com'
Cc: Hornick, John; Spencer, Jennifer; Lynne Lamendola
Subject: RE: Cinram MSJs

Dear Sam,

Further to your email below and your proposed motion for an extension of time, we do not believe that any discovery is needed to resolve the Defendants' motions for summary judgment as one of the motions is essentially based on evidence that Philips put in and the other is based on a prior Philips patent. Nonetheless, if you believe that Philips must have Rule 56(f) discovery, please tell us what you need and, if we believe the requested discovery is reasonable, we will provide it to you promptly and without the need for a motion by Plaintiffs, in order to avoid further delay.

Additionally, we understand that you may wish to consult with your experts in order to respond to the Defendants' motions for summary judgment but, in order to make an informed decision on your request for an extension of time, we would like to know over what periods your experts are in fact unavailable so that we can confirm that Philips and its experts will have sufficient time to prepare its oppositions without needing to subsequently request further extensions beyond August 31, 2010 to file its oppositions to Defendants' motions.

If you provide us with this information, we would be inclined not to oppose Philips' request for an extension of time until August 31, 2010.

Sincerely,
Greg

From: Bass, Samuel [mailto:Samuel.Bass@finnegan.com]
Sent: Monday, August 02, 2010 8:47 AM
To: 'gcarbo@cooperdunham.com'; 'ikavrukov@cooperdunham.com'
Cc: Hornick, John; Spencer, Jennifer
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Exhibit D

Bass, Samuel

From: Gregory Carbo [GCarbo@COOPERDUNHAM.COM]
Sent: Monday, August 02, 2010 4:42 PM
To: Bass, Samuel; 'ikavrukov@cooperdunham.com'
Cc: Hornick, John; Spencer, Jennifer; Lynne Lamendola
Subject: RE: Cinram MSJs

Dear Sam:

Further to your email below, we would like to have Defendants' motions for summary judgment resolved as soon as possible. If the purpose of Philips' requested extension is to accommodate the present unavailability of Philips' experts, of course we would agree to the extension so that Philips would have access to them when preparing its oppositions. Additionally, if Philips has an actual need for 56(f) discovery, we would like to know what it is so that we can provide it as soon as possible and thus avoid any delays in Philips' preparation of its Oppositions.

We are willing to agree to an extension of time until as late as September 7, 2010 to allow Philips to take discovery and prepare its Oppositions with the assistance of its experts if this much time is required. However, it is not clear to us from your email below what the purpose of the requested extension of time is for. Just telling us that Philips' experts have vacation plans in August, without even identifying when they will be unavailable, is too vague.

Best regards,
Greg

-----Original Message-----

From: Bass, Samuel [mailto:Samuel.Bass@finnegan.com]
Sent: Monday, August 02, 2010 2:16 PM
To: Gregory Carbo; 'ikavrukov@cooperdunham.com'
Cc: Hornick, John; Spencer, Jennifer; Lynne Lamendola
Subject: RE: Cinram MSJs

Dear Greg:

Thanks for your response, but we view it as imposing conditions. Please let us know by 6 PM today whether you will consent to an extension of time without conditions for Philips to respond to Cinram's MSJs. We will file the attached motion for an extension of time this evening unless we receive your consent.

Sincerely,
Sam

From: Gregory Carbo [GCarbo@COOPERDUNHAM.COM]
Sent: Monday, August 02, 2010 1:21 PM
To: Bass, Samuel; 'ikavrukov@cooperdunham.com'
Cc: Hornick, John; Spencer, Jennifer; Lynne Lamendola
Subject: RE: Cinram MSJs

Dear Sam,

Further to your email below and your proposed motion for an extension of time, we do not believe that any discovery is needed to resolve the Defendants' motions for summary judgment as one of the motions is essentially based on evidence that Philips put in and the other is

based on a prior Philips patent. Nonetheless, if you believe that Philips must have Rule 56(f) discovery, please tell us what you need and, if we believe the requested discovery is reasonable, we will provide it to you promptly and without the need for a motion by Plaintiffs, in order to avoid further delay.

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